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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/365,748	08/03/1999	MICHAEL DAVID BEDNAREK	MDB-1	2195

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EXAMINER
JANVIER, JEAN D

ART UNIT	PAPER NUMBER
2162	

DATE MAILED: 04/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/365,748	BEDNAREK, MICHAEL DAVID	
	Examiner	Art Unit	
	Jean D Janvier	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 January 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *24-46* is/are pending in the application.

4a) Of the above claim(s) *24-37* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *38-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 24-37, drawn to a system for personal communication using a two-way communication mobile device to send messages to a base station within a cellular communication network, classified in class 340, subclass 825.

II. Claims 38-46, drawn to an incentive program for associating a redemption rate with a participant having a specific ID wherein the incentive program is being applied at a casino, classified in classes 705 and 463, subclasses 14 and 1 respectively.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. However, the subcombinations are said to be distinct from each other if they are shown to be separately usable. Indeed, in the Instant Application, inventions I has separate utility such as a system for personal communication using a two-way communication mobile device to send messages to a base station within a cellular communication network. See MPEP 806.05(d). Furthermore, invention II has separate utility such as an incentive program for associating a redemption rate with a participant having a specific ID wherein the incentive program is being applied at a casino.

Please notice that they are no linking claims.

Since these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, **restriction for examination purposes as indicated is proper and an Election By Original Presentation is made and hence Invention II (claims 38-46) is elected and will be examined accordingly.**

Response to Amendment

The Examiner approves the new abstract submitted by the Applicant.

Response to Arguments

The following is a response to Applicant's arguments related to claims 38-46.

Applicant argues that "the prior art, including Deluca et al., fails to disclose or even suggest an incentive system in which a **redemption rate** that is adjusted according to a second reward system determines the value of points earned pursuant to a first reward program". The Examiner respectfully disagrees with the Applicant's findings. Indeed, the above limitation, as recited in claim 38, is very broad. Further, Deluca et al. disclose a system wherein a user of a wireless device can earn credits for reading advertising messages (first reward incentive program) transmitted along with information service and/or personal messages to the wireless device such as a pager and wherein the credits are used to pay for and/or reduce the charges associated with the transmitted information service, such as stock quotes, and the personal messages. Upon reading the advertising messages, the user can also answer quizzes regarding the read advertising messages and for each quiz answered correctly, the user is rewarded with

additional credits (second incentive program), wherein the additional credits are to be added to the original credits given to pager user 71 or participant for reading advertisement transmitted to pager 32 allowing pager user 71 to transmit or receive personal messages and/or information service for free or at a reduced cost and subsequent to redeeming or using some of the credits earned, the user account is debited accordingly and the remaining balance is stored in debit/credit meter 77 (col. 8: 40 to col. 9: 19; col. 9: 20-4).

Applicant's arguments filed on January 25, 2002 regarding claims 38-46 have been fully considered, but they are not persuasive and therefore, the following office action concerning claims 38-46, as submitted below, **has been made final**.

DETAILED ACTION

Specification

Status of the claims

Claims 1-23 were canceled. After the First Non-final Office Action, claims 24-46 were added. Claims 24-46 are now pending in the Instant Application. Finally, **claims 24-37 were restricted in view of an Election by Original Presentation.**

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 38 recites the limitation "the value" and "the points". There is insufficient antecedent basis for these limitations since this is the first time the terms Value and Points are used in the claim. For examination purpose, --a value-- and --points-- are considered or used.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 38-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Deluca et al, US Patent 5,870,030.

The applied reference, based upon its earlier effective U.S filing date, constitutes a prior art under 35 U.S.C. 102(e).

As per claims 38, Deluca et al teach a system comprising-

38.

A plurality of participants **or pager users 71**;

A participant ID **or pager number or address or paging service account 118** associated with each participant **or pager user 71 (col. 5: 47-58)**;

A redemption rate associated with each participant ID **or paging service account 118 based on the number of total combined credits given to the participant for reading advertisements and answering correctly questions on advertisements submitted by advertisers and wherein the credits are used to pay for information services, such as stock quotes, and personal messages received by the user while redeeming the credits (col. 9: 20-40;col. 8: 40 to col. 9: 19)**;

A first reward program under which participants **or pager users 71** may earn points or **credits** for certain actions **such as reading ads** (col. 6: 66 to col. 9: 19);

A second reward program through which the redemption rate associated with a particular participant is adjusted in response to certain participant action **or an additional award provided to pager user 71 for correctly answering questions regarding at least one transmitted ad wherein the additional award is to be added to an original or first award given to pager user 71 or participant for reading advertisement transmitted to pager 32 allowing pager user 71 to transmit or receive messages for free whereby the total award is stored in debit/credit meter 77 (col. 8: 40 to col. 9: 19);**

Wherein the redemption associated with **the** participant ID determines **a** value **for the remaining credits subsequent to using some of the credits for receiving free information services and personal messages (col. 9: 20-40;col. 8: 40 to col. 9: 19).**

As per claims 39-42, Deluca et al. further disclose a system comprising-

39. Wherein the program is implemented with a system that includes: a participant **or user 71** action reporting unit **or pager 32 of fig. 6;** a participant ID input unit **or push buttons on pager 32 of fig. 8;** a data storage and memory unit **or debit/credit meter 77;** a redemption unit; and an incentive adjustment unit and a computation unit **(col. 9: 20-40;col. 8: 40 to col. 9: 19;** col. 10: 29 to col. 11: 2).

As per claims 40 and 41, Deluca et al disclose **an incentive program corresponding to a paging service, wherein an additional award is provided to a pager user 71 for correctly answering a question regarding at least one transmitted ad and the additional award is to be added to an original or first award given to pager user 71 or participant for reading an advertisement transmitted to pager user 71 using pager 32, which allows pager user 71 to transmit or receive messages for free whereby the total award, that is original award plus additional award, is stored in debit/credit meter 77 (col. 8: 40 to col. 9: 19) to be retrieved during redemption. Here, the number of credits a pager user can earn depends upon not only the monetary value of the transmitted ad, but also on the monetary value of the quiz associated with the ad as shown in fig.6. Further, the number of credits that can be**

redeemed at any given time is directly related to the monetary value associated with the information service downloaded and/or personal message transmitted as depicted in fig.6 and, of course, on the total number of available credits stored in debit/credit meter 77. The total award given to a user 71 maybe the same or different for each user based upon the value of the transmitted ad or on whether or not the corresponding quiz has been answered correctly (col. 9: 20-40).

42. Wherein the first reward program is a rebate program under which participants **or users 71** earn points or **credits** for certain purchases **or for reading ads transmitted with personal messages** and the second reward program is a variable redemption rate program through which **a** cash value redemption rate associated with a particular participant is adjusted in response to certain participant action **such as correctly answering questions associated with the transmitted ads as shown in fig. 6 (fig. 7; col. 9: 20-40;col. 8: 40 to col. 9: 19;** col. 10: 29 to col. 11: 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deluca et al, US Patent 5,870,030A, in view of Cook et al, US Patent 5,766,075A.

In general, concerning claims 43-46, Deluca et al do not suggest using, among other things, their paging system having a reward component at a casino.

However, regarding claims 43, 44 and 46, Cook et al disclose a bet guarantee system in which a player or patron is guaranteed that at least a minimum amount of money will be returned to the player based upon, among other things, the amount of money lost during an hour or a trip by tracking the player's activities who uses a conventional bar coded card inserted into a casino machine (col. 2: 40) while gambling. During the course of a day, a patron may have many ratings at various gaming machines on a particular floor and thus over the course of a trip, there will be an even larger number of ratings. A player's guarantee bet or reward can be determined, in a number of ways, as the greater of: 1) the patron's loss during the first hour or other time interval of play; 2) a percentage of the casino's total trip theoretical win for that patron; 3) a percentage of the patron's actual losses during the trip, or 4) an arbitrary dollar amount (col. 2: 41-59). It should be understood that other suitable combinations might be used to guarantee a bet coupon to the patron as known in the art (See abstract; Col. 1: 13-55; col. 1: 66 to col. 3: 9).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate Cook et al guarantee bet system into Deluca et al paging system having a reward component so as to use Deluca et al system or more specifically the reward component at a casino facility, whereby a player or patron using his bar coded card can earn credits or points for gambling at the casino facility based upon a number of factors including the patron's or player's loss during the first hour or other time interval of play, a percentage of the casino's total trip theoretical win for that patron or player, a percentage of the patron's or player's actual losses during the trip or an arbitrary dollar amount, thereby ensuring, among other things, that a portion of the player's gambling loss is given to the player while encouraging the player or patron to return to the casino facility to redeem his credits or points or to gamble. By so doing, the casino facility will be able to keep its current customers or players while increasing its revenue.

Claim 45 further recites a computer implemented incentive program applied to a casino gaming, wherein the variable redemption rate is used to provide an auxiliary game pursuant to which a player that has a net positive balance can place an auxiliary bet that, can either increase or decrease the player's credits or points. Nevertheless, the Examiner notes that there is no difference between the auxiliary game as described herein and the game previously mentioned in claims 43 and/or 44. The player or patron may either lose or win money or have his credits or points decrease or increase regardless of the game the player is playing. **Therefore, claim 45 is rejected under a similar rationale as respectively applied to claim 43.**

Conclusion

Although the following references were not used in the Office Action, they were highly considered by the Examiner. Applicants are further directed to consult these references.

US Patent 5,806,045A to Biorge et al. discloses a method and system for allocating and redeeming incentive credits between a portable device and a base device.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner

by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 305-3900.

Further, the following fax numbers can be used, if need be, by the Applicant(s):

After Final- 703-746-7238

Official Draft-703-746-7239

Non-Official Draft- 703-746-7240

Please provide support, that is page and line numbers, for any amended or new claim, otherwise any new claim language that is introduced in an amended or new claim will be considered as new matter.

Steve Gravini for GWS
STEPHEN GRAVINI
PRIMARY EXAMINER

JDJ
4/6/02